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 LOWE'S HOME CENTERS, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO OFFICE

ROGER CRAMER,

Plaintiff,

v.

LOWE'S HOME CENTERS, LLC,
 and
 DOES 1 TO 20,

Defendants.

CASE NO.: 15-cv-00480-JST

(San Francisco County Superior Court Case
 No.: SCV256419)

STIPULATED PROTECTIVE ORDER

Plaintiff ROGER CRAMER ("Plaintiff") and Defendant LOWE HOME CENTERS, LLC ("Defendant") jointly submit this Stipulated Protective Order pursuant to Federal Rules of Civil Procedure, Rule 26(c)(1) limiting the use and disposition of certain information, materials, and documents during litigation of this matter. The parties agree that discovery in this action may yield documents, materials, and information of a sensitive and confidential nature, including but not limited to, Defendant's proprietary policies and procedures, security related information, personnel files of present and former employees, and other confidential information that may be subject to discovery in the proceedings in this matter but which should not be made available to the public generally. As a result, the parties have agreed to this jointly submitted Stipulated Protective Order and request that it be adopted by order of this Court.

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Good Cause Statement

Federal Rules of Civil Procedure, Rule 26(c)(1) states in pertinent part, that the Court, upon a showing of good cause may “issue an order to protect a party from annoyance, embarrassment, oppression, or undue burden or expense.” Fed.R.Civ.P. 26(c)(1). In the instant matter, Defendant’s Confidential Documents contain proprietary and confidential trade secret information relating to defendant’s business practices and its safety protocol. Defendant derives independent economic value from maintaining the confidentiality of the policies and procedures set forth in these Confidential Documents.

Defendant is a retailer in the home improvement industry and has conducted business in California since 1998. The home improvement retail industry is very competitive. As a result of years of investing time and money in research and investigation, defendant developed the policies contained in the Confidential Documents for the purposes of maintaining the security and accessibility of its merchandise, providing quality customer service, and ensuring the safety of its employees and customers. These policies and procedures, as memorialized in the Confidential Documents, were created and generated by Lowe’s for Lowe’s, and are used for the purposes of maintaining safety at its stores and creating efficient and organized work environments for its employees. As a result, defendant is able to minimize the waste of any resources, which is a key factor in generating profitability for its business.

Defendant derives economic value from maintaining the secrecy of its Confidential Documents. If disclosed to the public, the trade secret information contained in defendant’s Confidential Documents would reveal defendant’s internal operations and could potentially be used by competitors as a means to compete for its customers, interfere with its business plans and thereby gain unfair business advantages. If defendant’s safety protocol were revealed to the general public, it would hinder defendant’s ability to effectively resolve and minimize liability claims,

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1 and its goal of protecting its customers and employees from theft and other crimes.
 2 Unrestricted or unprotected disclosure of such information would result in prejudice
 3 or harm to Defendant by revealing Lowe's competitive confidential information,
 4 which has been developed at the expense of Lowe's and which represents valuable
 5 tangible and intangible assets. Accordingly, the parties respectfully submit that there
 6 is good cause for the entry of this Protective Order.

7 **Purpose and Limitation**

8 As mentioned above, disclosure and discovery activity in this action are likely
 9 to involve production of confidential, proprietary, security related, or private
 10 information for which special protection from public disclosure and from use for any
 11 purpose other than prosecuting this litigation may be warranted. Accordingly, the
 12 parties hereby stipulate to and petition the court to enter the following Stipulated
 13 Protective Order.

14 The disclosure of any of the foregoing categories of information and/or
 15 documentation protected by this Order, including confidential business and financial
 16 information identified above, will have the effect of causing harm to the competitive
 17 and financial position of the person, firm, partnership, corporation, or to the
 18 organization from which the information was obtained. Unprotected disclosure of
 19 any of the above identified confidential information may further expose Defendant to
 20 unwarranted annoyance, embarrassment, and/or oppression.

21 The parties acknowledge that this Protective Order does not confer blanket
 22 protections on all disclosures or responses to discovery and that the protection it
 23 affords from public disclosure and use extends only to the limited information that is
 24 entitled to confidential treatment under the applicable legal principles. The parties
 25 further acknowledge that this Protective Order does not entitle them to file
 26 confidential information under seal. Civil Local Rules 79-5 set forth the procedures
 27 that must be followed and the standards that will be applied when a party seeks
 28 permission from the court to file material under seal.

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1 The parties having agreed to the following terms governing the treatment of
2 confidential information, and the Court having found that good cause exists for
3 issuance of an appropriately-tailored confidentiality order governing the pre-trial
4 phase of this action, it is HEREBY ORDERED as follows:

5 1. All documents or materials produced or information disclosed and any
6 other documents or records designated as "CONFIDENTIAL" by the Defendant
7 shall be revealed only to a settlement officer, Plaintiff, counsel of record in this case,
8 paralegals and secretarial employees under counsel's direct supervision, and such
9 persons as are employed by counsel to act as experts in this action. The information
10 designated as "CONFIDENTIAL" and disclosed only in accord with the terms of
11 this paragraph may include, without limitation, documents and information
12 containing Defendant's policies and procedures, security related information,
13 including surveillance video, as well as personnel records, including disciplinary
14 records, identity, information relating to the processes, operations, type of work, or
15 apparatus, or the production, sales, shipments, transfers, identification of customers,
16 inventories, amount or source of income, profits, losses, expenditures, or any
17 research, development, or any other commercial information supplied by the
18 Defendant in response to Plaintiff's Interrogatories or Requests for Production.
19 Information and documentation considered "CONFIDENTIAL" are subject to
20 protection under Civil Local Rule 79-5 of the U.S. District Court – Northern District
21 of California, Rule 26 of the Federal Rules of Civil Procedure, and under other
22 provisions of Federal law.

23 2. Counsel for Plaintiff shall use all documents, materials, and/or
24 information produced or disclosed by the Defendant solely for the purposes of
25 preparation for and trial of this action. Under no circumstances shall information or
26 materials covered by this Protective Order be disclosed to anyone other than
27 Plaintiff's counsel of record in this action, paralegals, secretarial employees under
28 counsel's direct supervision, and such persons employed to act as experts in this

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1 action. At the conclusion of the proceedings in this action, all documents and
 2 information subject to this Order, including any copies or extracts or summaries
 3 thereof, or documents containing information taken therefrom, shall be returned to
 4 counsel for the Defendant, at defense counsel's written request.

5 3. Prior to disclosure of any documents designated as "confidential" to
 6 paralegals or secretarial employees of counsel or Plaintiff, counsel for Plaintiff shall
 7 require such employees to read this Protective Order and agree to be bound by its
 8 terms.

9 4. If counsel for Plaintiff determines that for purposes of this action,
 10 documents or information produced by the Defendant and designated as
 11 "confidential" must be revealed to a person employed to act as an expert in this
 12 action, then counsel may reveal the designated documents or information to such
 13 person, after first complying with the following:

14 (a) Counsel for the Plaintiff shall have the expert read this Order and shall
 15 explain the contents thereof to such expert.

16 (b) Counsel for the Plaintiff shall require such expert to sign a copy of this
 17 protective order that states: "I have read and understood the terms of
 18 this protective order. I further agree to be bound by its terms." Nothing
 19 in this paragraph shall be deemed to enlarge the right of Defendant to
 20 conduct discovery of any of Plaintiff's experts, except solely with
 21 respect to the ability of such expert to protect confidential information
 22 and documents from re-disclosure.

23 5. In accordance with Local Rule 79-5, if any papers to be filed with the
 24 Court contain information and/or documents that have been designated as
 25 "Confidential," the proposed filing shall be accompanied by an application to file the
 26 papers or the portion thereof containing the designated information or documents (if
 27 such portion is segregable) under seal; and the application shall be directed to the
 28 judge to whom the papers are directed. For motions, the parties shall publicly file a

1 redacted version of the motion and supporting papers.

2 6. The Court's Order is subject to revocation and modification by Order of
3 the Court upon written stipulation of the parties, or upon motion and reasonable
4 notice, including opportunity for hearing and presentation of evidence.

5 7. Any motion challenging a designation will need to be made in strict
6 compliance with Local Rules 37-1 and 37-2.

7 8. Nothing contained in this Order is intended or should be construed as
8 authorizing a party in this action to disobey a lawful subpoena issued in another
9 action.

10 Based on the foregoing, Plaintiff ROGER CRAMER and Defendant LOWE'S
11 HOME CENTERS, LLC hereby request that this Court issue a protective order
12 governing the treatment of confidential information in this matter.

13 **IT IS SO STIPULATED.**

14 Dated: 9/4/15

THARPE & HOWELL, LLP

16 By: 

17 CHARLES D. MAY
18 GENE B. SHARAGA
19 BRIAN J. KIM
Attorneys for Defendants
20 LOWE'S HOME CENTERS, LLC

21 Dated: 7/2/15

22 By: 

23 JAN ERIC BOLT
24 Attorney for Plaintiff,
25 ROGER CRAMER

26 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

27 Date: September 14, 2015

28 
HON. JON S. TIGAR
U.S. DISTRICT COURT JUDGE